

**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
February 12, 2008**

A regular session of the Winchester Common Council was held on Tuesday, February 12, 2008 in the Council Chambers, Rouss City Hall. President Charles Gaynor called the meeting to order at 7:30 p.m.

PRESENT: President Gaynor, Vice President Griffin, Mayor Minor, Vice-Mayor Buettner, and Councilors Clark, Coyne, Helm, Major, Masters, and Nelson. (10)

ABSENT: Councilor Butler. (1)

INVOCATION – Reverend Jean McDonald-Walker, Market Street United Methodist Church, pronounced the invocation.

PLEDGE OF ALLEGIANCE – Mayor Minor led councilors and citizens in the Pledge of Allegiance.

APPROVAL OF MINUTES – Vice-President Griffin moved that the minutes of the January 8, 2008 Regular Meeting, January 16, 2008 Special Meeting, and January 30, 2008 Special Meeting be approved as presented. *The motion was seconded by Mayor Minor and unanimously approved by voice-vote.*

REPORT OF PRESIDENT

- Motion to approve a resolution honoring W. Mike Ambrose.

Councilor Helm, chairman of the Public Services Committee, requested the reading be deferred due to the absence of Mr. Ambrose.

- Motion to approve a resolution honoring Ray E. Ritenour.

Councilor Coyne, chairman of the Health, Education and Welfare Committee, presented the resolution to Mr. Ritenour.

Councilor Coyne, seconded by Vice-President Griffin, moved to approve the resolution. The motion was approved unanimously by voice-vote.

- Public Hearing: AN ORDINANCE TO CONDITIONALLY REZONE 0.926 ACRES OF LAND AT 401 NORTH CAMERON STREET, 403-415 NORTH CAMERON STREET AND 10 BAKER STREET FROM CENTRAL BUSINESS, B-1 DISTRICT WITH HISTORIC WINCHESTER, HW OVERLAY TO CENTRAL BUSINESS, B-1 DISTRICT WITH HISTORIC WINCHESTER, HW OVERLAY. The Comprehensive Plan calls for light industrial use. RZ-07-12

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:36 p.m.

- Public Hearing: AN ORDINANCE TO REPEAL SECTION 16-25 OF THE WINCHESTER CITY CODE, AND TO AMEND ARTICLES 1, 18, AND 21 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITION AND OPEN STORAGE OF INOPERABLE MOTOR VEHICLES, AND CIVIL PENALTIES ASSOCIATED WITH OPEN STORAGE OF INOPERABLE MOTOR VEHICLES. TA-07-07

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:37 p.m.

- Public Hearing: AN ORDINANCE TO AMEND ARTICLES 3, 4, 5, 5.1, 6, 7, 9, 10, 16.1 AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO TIME-SHARED OFF-STREET PARKING. TA-07-09

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:37 p.m.

- Public Hearing: Request of Virginia Brewing Company for a Conditional Use Permit for a nightclub at 560 N. Cameron Street zoned Commercial Industrial, CM-1 District CU-07-12

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:38 p.m.

- Public Hearing: Request of Shenandoah Mobile Company for a Conditional Use Permit to construct a wireless communications tower at 1208 Berryville Avenue zoned Highway Commercial, B-2 District. CU-07-13

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:38 p.m.

- Public Hearing: To provide interested citizens an opportunity to appear before the Council and state their views on approval or disapproval of the budget supplemental appropriation requests for Fiscal Year ending June 30, 2008.

No citizens came forward to address Council concerning this issue and the President declared the public hearing closed at 7:39 p.m.

- Motion to appoint Carmen Crawford, John Kelly, Bruce Santilli, and Don Crawford as Ward Representatives to the Comprehensive Plan Advisory Committee.

President Gaynor, seconded by Vice-President Griffin, moved to approve the appointments. The motion was approved unanimously by voice-vote.

- Presentation of the Mental Health Task Force Final Report.

Councilor Coyne introduced the members of the Mental Health Task Force and stated they have been meeting monthly since the committee's formation in November of 2006. He then turned it over to Phillip Pate and Vicky McClelland who made the presentation. Councilor Coyne suggested he take the report back to the HEW Committee and bring back a formal request that would include the involvement of other jurisdictions in the region.

- Paul J. Whitmore of 30 East Piccadilly Street stated he is 72 years of age, a Korean War Veteran, and the owner of the Winchester News Stand. He provided copies of a letter he received on January 25th that almost made him lose his cool. He had a terrible weekend and could not sleep from this letter he received. At 8:01 on Monday morning, he called Mrs. Helm's office to speak to Mr. Smith and was told he was not there but he could be reached at his business. The secretary asked if Mr. Whitmore would like Mrs. Helm to call him back and after explaining the situation he stated he would. Mr. Whitmore has not heard from Mrs. Helm yet. He has been in business on Piccadilly Street for four years and still does not know who she is. Mr. Smith has not had the courtesy to call him. No one has called him and he is upset. Mr. Whitmore read a portion of the letter that stated "*We are contacting you because we would like to meet with you personally to explain the importance of visual quality and provide assistance to stimulate renovation activity in your building. We are meeting with all property owners on Piccadilly Street. Specifically, we want to encourage you to improve your building's appearance, offer design-related assistance, and help recruit businesses that would compliment the downtown.*" Mr. Whitmore received a picture with the letter that stated "This is what your customers see". The picture is of the Winchester News Stand. Mr. Whitmore provided a picture of the store in 1967 with Mr. Bayliss in front of it showing the exact same frontage and stated who knows how long it has looked like this. He received the letter from the Old Town Development Board but it should have been from the Old Town Design Board because they are telling him that the front of his store looks like you know what. It is a slap in the face to him as a businessman. Mr. Whitmore stated that when the boys left home a couple of years ago, he gave them \$1,000.00 to help them out. When the boys went overseas, the mayor was there, he was there, and he doesn't know how many councilors and citizens were there to wish the boys good luck. He received a letter from a gentleman that lives on the street and houses an emergency medical vehicle there who requested wet wipes for the boys overseas. Mr. Whitmore sent two cases to them. Mr. Whitmore has spoken with several people who visit his store on a regular basis to see what they thought of the appearance including State Senator Russ Potts, Councilor Major, Jim Deskins, and several more in the community. Some of the people could not believe he would receive a letter like this. Mrs. Foster, the owner of Foster Wicker Company, contacted Mrs. Helm to see if she needed to come to pick up an application for a loan. Mrs. Helm told her she did not. Two weeks later, Ms. Foster had to go get the loan because no one came to follow up. Mr. Whitman stated the Winchester News Stand has donated over \$40,000.00 to the education programs, the City of Winchester has received over \$3,000,102.00, and Frederick County has received \$12,000,205.00. He has a store that was a nothing store. The three previous owners could not get it to work. He gets the

store to work because he has a business head on his shoulders. He has quadrupled the business in the store. To get a letter like this from this so called business association group is a disgrace to him as a business owner. A slap in the face. Something should be done about it. It should be a designing board not a development board. We need Police down on Piccadilly Street. We need the street cleaned up which is not being done. We need a lot of things and they talk about the parking problem. Yes, we have a parking problem. We give free parking on Friday, Saturday, and Sunday that all of the tenants and business owners on the Old Town Mall park there for free. When it rains, we can't give out parking tickets because we don't want the tickets to get wet. We have a lot of problems more serious on Piccadilly Street than to send a group to embarrass him as a store owner. He is very proud of his store and he defies anyone of them to equal or even match what he has done over the past two years at the store. He thanked council and stated he hopes they will look into it and find out what Mrs. Helm is doing. He added that he wants to buy that building but is now afraid to do it.

President Gaynor informed Mr. Whitmore that City Attorney Anthony Williams is researching council's relationship with the Old Town Development Board to see who has the authority to do what. Mr. William's research is going to clarify some of the problems we may have. The letter did not come from council but we want to see the responsibilities within that relationship. President Gaynor assured Mr. Whitmore that council will follow up with him on this matter.

Mr. Whitmore stated he has invested a lot of money making improvements on the store and wants to do more but can't when he is being harassed.

With no further citizens to speak, the President declared the public hearings closed at 8:06 p.m.

FINANCE AND ADMINISTRATION

- Motion to approve changes to the Training and Travel policy in the Comprehensive Employee Management System.

The motion was seconded by Vice-President Griffin and unanimously approved by voice-vote.

- Motion to approve changes to the Freedom of Information Act policy in the Comprehensive Employee Management System.

The motion was seconded by Vice-President Griffin and Mayor Minor then unanimously approved by voice-vote.

- Motion to approve the Fiscal Year 2008 Budget Supplemental Appropriations.

The motion was seconded by Councilor Major and unanimously approved by voice-vote.

- Motion to appoint J. Brannon Godfrey, Jr. as Clerk of Council effective February 12, 2008.

The motion was seconded by Mayor Minor and Vice-President Griffin then unanimously approved by voice-vote.

- Motion to appoint J. Brannon Godfrey, Jr. to the MPO Policy Board.

The motion was seconded by Vice-President Griffin and unanimously approved by voice-vote.

PLANNING AND DEVELOPMENT

Chairman Griffin presented the following:

- Second Reading, by title, for adoption: AN ORDINANCE TO CONDITIONALLY REZONE 0.926 ACRES OF LAND AT 401 NORTH CAMERON STREET, 403-415 NORTH CAMERON STREET AND 10 BAKER STREET FROM CENTRAL BUSINESS, B-1 DISTRICT WITH HISTORIC WINCHESTER, HW OVERLAY TO CENTRAL BUSINESS, B-1 DISTRICT WITH HISTORIC WINCHESTER, HW OVERLAY. The Comprehensive Plan calls for light industrial use. RZ-07-12

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Butler	Absent
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

- Second Reading, by title, for adoption: AN ORDINANCE TO REPEAL SECTION 16-25 OF THE WINCHESTER CITY CODE, AND TO AMEND ARTICLES 1, 18, AND 21 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE DEFINITION AND OPEN STORAGE OF INOPERABLE MOTOR VEHICLES, AND CIVIL PENALTIES ASSOCIATED WITH OPEN STORAGE OF INOPERABLE MOTOR VEHICLES. TA-07-07

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Butler	Absent
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

- Second Reading, by title, for adoption: AN ORDINANCE TO AMEND ARTICLES 3, 4, 5, 5.1, 6, 7, 9, 10, 16.1 AND 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO TIME-SHARED OFF-STREET PARKING. TA-07-09

The motion was adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Aye
Councilor Butler	Absent
Councilor Clark	Aye
Councilor Coyne	Aye
Vice-President Griffin	Aye
Councilor Helm	Aye
Councilor Major	Aye
Councilor Masters	Aye
Mayor Minor	Aye
Councilor Nelson	Aye
President Gaynor	Aye

- Second Reading, by title, for adoption: AN ORDINANCE TO APPROVE A SPOT BLIGHT ABATEMENT PLAN FOR THE ACQUISITION, REHABILITATION, AND RESALE OF 1315 S. LOUDOUN STREET PER VIRGINIA CODE SECTION 36-49.1:1. SBA-06-09 (A public hearing on the Ordinance was conducted at the November 14, 2006 Council meeting. Action on the Ordinance was tabled for six months in order to provide the sister of the owner, who was identified as purchasing the property from Mr. Newlin, sufficient time to abate the blight. The ordinance was again tabled on June 12, 2007 for an additional six months.)

Vice-President Griffin stated this ordinance needed to be denied. The building looks great and the property owners have done a great job.

The motion was denied by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Vice-Mayor Buettner	Nay
Councilor Butler	Absent
Councilor Clark	Nay
Councilor Coyne	Nay
Vice-President Griffin	Nay
Councilor Helm	Nay
Councilor Major	Nay
Councilor Masters	Nay
Mayor Minor	Nay
Councilor Nelson	Nay
President Gaynor	Nay

- First Reading, by title: AN ORDINANCE TO CONVENTIONALLY REZONE 0.5107 ACRES OF LAND FROM COMMERCIAL INDUSTRIAL, CM-1 DISTRICT TO CENTRAL BUSINESS, B-1 DISTRICT AT 402 NORTH CAMERON STREET AND 130 BAKER STREET ZONED COMMERCIAL INDUSTRIAL, CM-1 DISTRICT. RZ-07-13
- First Reading, by title: AN ORDINANCE TO AMEND ARTICLE 18 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO ACCESSORY USES AND STRUCTURES. TA-07-08
- Motion to approve the request of Virginia Brewing Company for a Conditional Use Permit for a nightclub at 560 N. Cameron Street zoned Commercial Industrial, CM-1 District subject to the conditions recommended by the Planning and Development Committee. CU-07-12

The motion was seconded by Councilor Coyne and approved with an 8-1-1 vote. Councilor Nelson voted in the negative and Councilor Major abstained.

- Motion to approve the request of Shenandoah Mobile Company for a Conditional Use Permit to construct a wireless communications tower at 1208 Berryville Avenue zoned Highway Commercial, B-2 District. CU-07-13

The motion was seconded by Councilor Major and unanimously approved by voice-vote.

- Motion to appoint J. Brannon Godfrey, Jr. to the City Manager's position on the Planning Commission.

The motion was seconded by Councilor Nelson and unanimously approved by voice-vote.

- Motion to appoint J. Brannon Godfrey, Jr. to the City Manager's position on the Old Town Development Board.

The motion was seconded by Councilor Nelson and unanimously approved by voice-vote.

- Motion to re-appoint Carolyn Griffin and Walter H. "Skeeter" Knee as members of the Community Development Committee for a three year term expiring December 31, 2010.

President Gaynor, seconded by Mayor Minor, moved to approve the appointments. The motion was unanimously approved by voice-vote.

- Motion to direct the Clerk of Council to prepare Certificates of Appreciation for Patricia Ridgeway and John Keller as members of the Old Town Development Board.

The motion was seconded by Mayor Minor and unanimously approved by voice-vote.

- Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for David McClure as a member of the Board of Building Code Appeals.

Vice-President Griffin asked for a motion to strike this item and stated Mr. McClure was acknowledged for his service at the August 14, 2007 meeting.

The motion to strike was made by Councilor Buettner, seconded by Councilor Coyne, and approved unanimously by voice-vote.

- Announce the term expirations of Patrick Farris and Catherine C. Shore as members of the Board of Architectural Review expiring April 30, 2008, and direct the Clerk of Council to advertise the vacancies. Mr. Farris and Mrs. Shore are eligible for re-appointment.

PUBLIC SERVICES

Chairman Helm presented the following:

- Motion to approve the Intermunicipal Agreement for the Opequon Water Reclamation Facility.

The motion was seconded by Councilor Coyne and unanimously approved by voice-vote.

- Motion to approve a resolution for traffic signal removal on Berryville Avenue.

The motion was seconded by Councilor Clark.

Councilor Coyne stated he was not at the last committee meeting and asked the status of the communication with CVS regarding the light removal. Chairman Helm stated he did not know the status but the committee feels it is a superfluous light.

Councilor Coyne stated he agrees but is concerned whether or not the City made any representations to CVS when the light was put in.

City Attorney Williams stated that from a legal stand point, we are on solid ground in terms of taking the light down. He added that Jim Deskins may have some other information for us.

Mr. Deskins stated the light was authorized through a letter signed by Tim Youmans as a result of a meeting between myself, CVS and Ed Daley, the city manager.

Councilor Coyne stated although it did not come to council for formal approval, he wanted to make sure we would be on solid legal ground.

Mr. Williams stated he has looked at the letter and doesn't think there are any legally binding terms. If it is a decision by the council that it needs to come down, we can appropriately proceed with it.

Councilor Major asked if anyone has talked to CVS. Mr. Deskins stated he has talked with the developers who developed the property for CVS and they have concerns about it since it was approved in the site plan.

Councilor Nelson asked if this was a proffer or a recommendation from the city. Planning Director Tim Youmans stated we agreed to let them put it in but it was not a site plan requirement. The land was already zoned for it to be by-right so it was not a proffer.

Councilor Major moved to table the motion until next month and in the mean time officially notify CVS. The motion was seconded by Vice-President Griffin and unanimously approved.

- Motion to approve a resolution to authorize the Business Development Grant Program for Vacant Properties.

The motion was seconded by Councilor Coyne and unanimously approved by voice-vote.

- Motion to direct the Clerk of Council to prepare Certificates of Appreciation for J. Douglas Butler and Milt McInturff as members of the Tree Commission.

The motion was seconded by Councilor Major and unanimously approved by voice-vote.

- Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for Debby Smith as a member of the Parks and Recreation Board.

The motion was seconded by Mayor Minor and unanimously approved by voice-vote.

PUBLIC SAFETY

Mayor Minor presented the following report in Chairman Butler's absence:

- First Reading, by title: AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 31-67 OF THE WINCHESTER CITY CODE CONCERNING APPEALS FROM THE REFUSAL OF THE CHIEF OF POLICE TO ISSUE A TAXICAB PERMIT.
- First Reading, by title: AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 31-72 OF THE WINCHESTER CITY CODE PERTAINING TO REVOCATION OR SUSPENSION OF TAXICAB PERMITS.
- Motion to appoint J. Brannon Godfrey, Jr. to the City Manager's position on the Regional Jail Board.

The motion was seconded by Councilor Major and unanimously approved by voice-vote.

- Motion to appoint J. Brannon Godfrey, Jr. to the City Manager's position on the Juvenile Detention Commission and Craig Smith as an alternate member.

The motion was seconded by Vice-President Griffin and unanimously approved by voice-vote.

- Motion to reappoint Tim Coyne as a member of the Regional Jail Board for a four year term expiring December 31, 2011.

The motion was seconded by Councilor Helm and unanimously approved by voice-vote.

- Motion to direct the Clerk of Council to prepare Certificates of Appreciation for Douglas Butler and David Burks as members of the Winchester Transportation Safety Commission.

The motion was seconded by Councilor Major and unanimously approved by voice-vote.

HEALTH, EDUCATION AND WELFARE

Chairman Coyne presented the following:

- Motion to adopt a transit Resolution authorizing an application to the Virginia Department of Rail and Public Transportation for state aid to public transportation for Fiscal Year 2007.

The motion was seconded by Vice-President Griffin and unanimously approved by voice-vote.

- Motion to adopt a Resolution authorizing the City Manager to execute and file applications; and annual certification and assurances to the Federal Transportation Administration.

The motion was seconded by Vice-President Griffin and unanimously approved by voice-vote.

- Motion to appoint J. Brannon Godfrey, Jr. to the City Manager's position on the Social Services Advisory Board.

The motion was seconded by Mayor Minor and unanimously approved by voice-vote.

- Announce the resignation of John Borg as a member of the College Board of Lord Fairfax Community College effective November 8, 2007 and direct the Clerk of Council to advertise the vacancy.

Chairman Coyne moved to strike this item and stated the announcement was made at the last Council meeting. The motion was seconded by Vice-President Griffin and unanimously approved by voice-vote.

- Motion to appoint Jim Deskins as a member of the College Board of Lord Fairfax Community College for an unexpired four year term ending June 30, 2009.

The motion was seconded by Vice-President Griffin and unanimously approved by voice-vote.

- Announce the term expirations of Darlene Duncan and Tim Grove as members of the Parks and Recreation Board expiring April 30, 2008, and direct the Clerk of Council to advertise the vacancies. Ms. Duncan is not eligible for re-appointment. Mr. Grove is eligible for re-appointment.
- Announce the resignation of Angela Jones as a member of the Northwestern Community Services Board effective January 28, 2008 and direct the Clerk of Council to advertise the vacancy.

NEW BUSINESS

Mayor Minor stated Virginia is the home to the longest continuous experience of African-American culture and life in the United States. That history is commemorated in the month of February when we celebrate Black History Month and the birthdays of Frederick Douglass and Abraham Lincoln.

Mayor Minor welcomed the new city manager, Brannon Godfrey, his wife Leslie, and sons Collier and Harrison.

Mayor Minor announced that the Winchester Frederick County Convention and Visitor's Bureau has moved to their new facility shared with Shenandoah University's History and Tourism Center. She asked the citizens to visit the center and stated she is sure the citizens will find a place to visit in the community they have not discovered yet.

Mayor Minor stated the work has begun in earnest on the City's Comprehensive Plan update. She stated the City values the input of its citizens and hopes they will attend and participate during the public meetings in their neighborhoods and in City Hall.

Mayor Minor announced the construction on the new Senior Recreation Center is progressing. The project is expected to be complete this fall.

Mayor Minor announced the recruitment for a Police Chief continues. Mr. Godfrey will finalize the interview process with the Public Safety Committee Chairman Mike Butler and involve council, staff and citizen representatives.

Mayor Minor announced in December of 1991, City Council passed a resolution designating February 11th as "Charles Broadway Rouss Day" in honor of the 100th anniversary of Mr. Rouss' first gift to Winchester. Mr. Rouss contributed funds for City Hall, the iron fencing surrounding Mount Hebron Cemetery, Rouss Fire Company and the municipal water works system. He also funded Rouss Hall at the University of Virginia and Battle Abby in Richmond.

ADJOURNMENT – With no further business to discuss, Mayor Minor moved that the meeting adjourn at 8:36 p.m. *The motion was seconded by Vice-President Griffin then unanimously approved by a voice-vote.*

Kari J. Van Diest
Deputy Clerk of the Common Council